

August 15, 1997

Nelson Toye, Deputy Chief Financial Officer  
Office of the Under Secretary of Defense  
1100 Defense Pentagon  
Washington, D.C. 20301-1100

Re: State Chartered Credit Unions Operating Branches on Military Installations overseas  
Your letter dated July 3, 1997.

Dear Mr. Toye:

You have asked several questions relating to state chartered credit unions operating branches on military installations located overseas. Your specific questions, along with our answers, are set forth below.

*1. May an existing federal credit union convert to a state charter and remain subject to the regulations of the NCUA?*

Yes. If a state chartered credit union is federally insured, it is subject to examination and regulation by both the state supervising agency and NCUA. Federally insured state chartered credit unions (FISCUs) must sign an "Agreement for Insurance of Accounts" which provides that they agree to comply with the requirements of Title II of the Federal Credit Union Act (FCU Act) and of regulations prescribed by the NCUA Board. For your review, a copy of a sample "Agreement" is enclosed.

While certain NCUA regulations apply only to federal credit unions, key safety and soundness regulations, such as those concerning fidelity bond requirements and limitations on business lending and lending to insiders, apply to all federally insured credit unions. NCUA has general rulemaking authority with respect to all federally insured credit unions.

*2. Does the NCUA provide full insurance coverage for credit union members' accounts that are established and exist at overseas installations? Would state chartered credit unions operating at overseas installations be covered by insurance requirements of the NCUA?*

Yes. NCUA is authorized to provide insurance for the member accounts of "credit unions organized and operated according to the laws of any State, the District of Columbia, the several territories, and possessions of the United States, the Panama Canal Zone, or the Commonwealth of Puerto Rico." 12 U.S.C. §1781(a). The amount of insurance is determined in accordance with the FCU Act and NCUA's regulations. 12 U.S.C. §1787(k) and 12 C.F.R. Part 745. An NCUA insured state chartered credit union operating overseas would be subject to the same insurance requirements as a federal credit union.

*3. Are state-chartered credit unions, operating at overseas locations, subject to NCUA on-site audits or only state regulators audits?*

NCUA has the right to examine any federally insured credit union. 12 U.S.C §1784; 12 C.F.R. §741.1. NCUA examinations are technically not audits as the term is used by the accounting profession, but are insurance reviews focusing on issues of safety and soundness such as asset quality, positive earnings, and adequate reserves.

NCUA recognizes state regulatory agencies as primarily responsible for supervising and examining FISCUs, including those that may have offices located overseas. The actual examination of FISCUs is not the same

in each state. In some states, NCUA examiners work with state examiners and conduct a joint examination. In other states, state regulators conduct the examination and share their examination reports with the appropriate NCUA regional office. In the latter case, an NCUA examiner reviews the state reports to confirm that the examination has identified problems affecting safety and soundness of a FISCU properly, has recommended appropriate corrective action, and has established reasonable time-frames for corrective action.

*4. How can the Department determine if a specific credit union is approved and regulated by the NCUA?*

If the Department is interested in knowing whether a state chartered credit union is federally insured and thus, subject to regulation by the NCUA, it only needs to contact the appropriate NCUA regional office which can provide such information.

*5. Assuming that state chartered credit unions are authorized by the Department to operate at overseas installations, what role does the NCUA play in determining regulatory requirements if problems arise among credit unions chartered by different state regulatory agencies?*

NCUA and state supervising agencies jointly assume responsibility for addressing safety and soundness issues adequately and for coordinating with examiners on any necessary corrective action. NCUA and the National Association of State Credit Union Supervisors (NASCUS) meet frequently to encourage cooperation, resolve differences, and provide a continuing forum for regulatory and insurance issues.

If a FISCU has serious operational and management problems that cannot be resolved, NCUA has available the same authority it has for federally chartered credit unions to take administrative action. That authority includes the power to issue a cease and desist order, impose civil money penalties, order the prohibition and removal of credit union officials, impose a conservatorship, and terminate federal share insurance. 12 U.S.C §1786. However, only a state supervising agency can place an insolvent FISCU into involuntary liquidation.

*6. What legal precedent would be established by having state credit union regulations determining de facto public policy for a federal department?*

If there are any issues that concern the Department involving FISCU's, NCUA can work with the Department to insure uniformity in policy.

*7. What is the NCUA's assessment of congressional intent to maintain federally-chartered credit unions to facilitate compliance with international law and regulations?*

NCUA is unaware of any particular congressional intent on this matter.

*8. Finally, does the NCUA object to the presence of state-chartered credit unions located on DoD overseas military installations?*

No. It is NCUA's position that FISCU's should have the same opportunity as federal credit unions to provide credit union services.

Sincerely,

Norman E. D'Amours

Chairman

GC/NSW:bhs

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Enclosure